

Community & Economic Development Division
Planning and Development Services

7447 East Indian School Road, Suite 105
Scottsdale, Arizona 85251

To: City Clerk

From: Keith Niederer, Sr. Planner *KN*

Through: Tim Curtis, AICP, Current Planning Director *TC*

CC: Joe Padilla, Deputy City Attorney

Date: 8/21/2017

Re: Resolution No. 10879 Exhibit 2 update

OK per Joe Padilla

The 101 Restaurant (3-UP-2017) stipulations were updated after the resolution was signed by the Legal Department. They now reflect the accurate days of operation of live entertainment.

CITY COUNCIL REPORT



Meeting Date: August 29, 2017
 General Plan Element: *Land Use*
 General Plan Goal: *Create a sense of community through land uses*

ACTION

101 Restaurant 3-UP-2017

Request to consider the following:

Find that the Conditional Use Permit criteria have been met and adopt Resolution No. 10879 approving a Conditional Use Permit for live entertainment on a +/- 13,042 square foot site with Highway Commercial (C-3) zoning located at 8740 E Frank Lloyd Wright Blvd.

Goal/Purpose of Request

The applicant's request is to operate a restaurant with live entertainment.

Key Items for Consideration

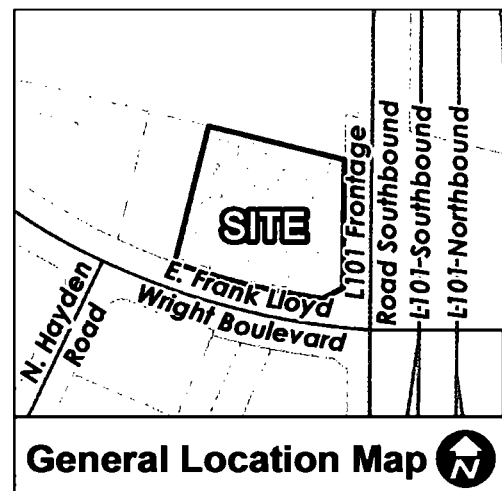
- Conditional Use Permit Criteria for live entertainment
- One email received in opposition as of the drafting of this report
- Restaurant building is completed, but is not yet open for business. Numerous inquiries have been received regarding the proposed use of the building
- Planning Commission heard this case on July 26, 2017 and recommended approval with a 7-0 vote

OWNER

FLW and Pima Plaza LLC
 901-767-5423

APPLICANT CONTACT

Mike Leary
 Michael P Leary Ltd
 480-991-1111



LOCATION

8740 E Frank Lloyd Wright Bl

BACKGROUND

General Plan

The 2001 General Plan Land Use Element designates the property as Mixed Use Neighborhoods, with a Regional Use overlay. This category includes neighborhoods with strong access to multiple modes of transportation and major regional access and services. These areas could accommodate higher density housing combined with complementary office or retail uses or mixed use structures. The Regional Use Overlay can include corporate office, region serving retail, major medical, educational campus, community service facilities, tourism and destination attraction uses.

Character Area Plan

The Greater Airpark Character Area Plan designates the property as Airpark Mixed Use (AMU). This category is appropriate for a variety of non-residential uses, including a combination of business, office, employment, retail, and institutional uses. Development in AMU areas should be pedestrian-oriented and have access to multiple modes of transportation.

Zoning

The site is zoned Highway Commercial (C-3). The site was annexed into the City of Scottsdale in 1978, and subsequently rezoned to R1-35. In 1987, case 9-Z-87 zoned the property to its current zoning of C-3. The C-3 zoning district allows for restaurants by-right, and restaurants with live entertainment with approval of a Conditional Use Permit.

Context

The subject property is located at the northwest corner of the Loop 101 Freeway and E. Frank Lloyd Wright Blvd. Please refer to context graphics attached.

Adjacent Uses and Zoning

- North: Central Arizona Project canal/Bureau of Reclamation property, zoned R1-35.
- South: Twin Peaks Restaurant, McDonald's Restaurant, and Gasoline Station, zoned C-3
- East: Loop 101 Freeway
- West: Golf Retail Store, zoned C-3

Other Related Policies, References:

Scottsdale General Plan 2001, as amended
Greater Airpark Character Area Plan
Zoning Ordinance
Case 16-DR-2012#2

APPLICANTS PROPOSAL

Development Information

The subject site and building exterior has been completed since July 2016. The restaurant has not yet opened for business, but the interior is currently being improved. The owner is currently seeking a Conditional Use Permit for live entertainment to allow for future musical performances at the restaurant. Per the applicant's narrative, the restaurant will be serving lunch, dinner and late dinner from 11:00 am to 2:00 am Monday through Sunday with no cover charge or age verification at the door. It is anticipated that there will be a disc jockey playing recorded music, and occasions when music will be performed live from 9:00 pm to 2:00 am. The live music triggers the need for a Conditional Use Permit.

- Existing Use: Building for future restaurant
- Proposed Use: Restaurant with Live Entertainment
- Parcel Size: 135,447 s.f. +/- (3.10 acres +/-)
- Parking Required: 115 spaces (13,042 bldg. sf / 120) + (1,805 patio sf / 350)
- Parking Provided: 181 spaces
- Floor Area: 13,042 gross square feet

IMPACT ANALYSIS

Conditional Use Permit

Conditional Use Permits, which may be revocable, conditional, or valid for a specified time period, may be granted only when expressly permitted after the Planning Commission has made a recommendation and City Council has found as follows:

- A. That the granting of such Conditional Use Permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:
 1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
 - **This establishment is located in a primarily commercial area. The nearest commercial business is located approximately 200 feet to the west and south. The nearest residential use is located approximately 1,600 feet to the east/southeast. The CAP canal and TPC golf course is to the north, the Loop 101 freeway is to the east, retail and restaurants are to the south, and retail uses are located to the west. The addition of a stage and a dance floor is not anticipated to result in any damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.**
 2. Impact on surrounding areas resulting from an unusual volume or character of traffic.
 - **Parking for the proposed site requires 115 spaces, 181 spaces are provided.**
 - **This establishment is located at the major intersection of the Loop 101 Freeway and E. Frank Lloyd Wright Boulevard. Access to the parking lot is via Frank Lloyd**

Wright Boulevard and via the cross access easements with the properties to the west, that lead to the signalized intersection of Frank Lloyd Wright Boulevard and Hayden Road. The use is not anticipated to result in an unusual volume or character of traffic. However, staff has heard from a couple of the property owners to the west that have concerns with the proposed use and traffic.

- B. The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.
- **Although there are no restaurants with live entertainment in this area, there are other restaurants and commercial uses in the area. Live entertainment in this area should create a symbiotic relationship between daytime and nighttime uses.**
- C. The additional conditions specified in Section 1.403, as applicable, have been satisfied. The proposal meets the provisions for Live Entertainment as identified in Zoning Ordinance Section 1.403.K., including:
1. The applicant has provided and obtained City approval of a written Security and Maintenance Plan.
 - **A Security, Maintenance and Operations plan has been reviewed and approved by the Police Department. Conditions of the plan will be enforced by the City's Code Enforcement Division and the Police Department.**
 2. The applicant has provided written evidence that sound resulting from indoor live entertainment will be contained within the building, except where external speakers are permitted by Conditional Use Permit to allow indoor live entertainment to be heard outdoors.
 - **The disc jockey and live musical performances will take place on the inside of the building. However, the owner is requesting the ability to have external speakers on the patios located on the south and west sides of the building. The speakers would be mounted to direct sound inwards towards the building. With noise from adjacent traffic and the nearest other business being 200-feet away, and the nearest residential use is approximately 1,600 feet away, it is not likely that the music will be impactful.**
 3. The applicant has provided a lighting plan that addresses exterior lighting on the property, in accordance with Article VII of the Zoning Ordinance and the Security and Maintenance Plan requirements.
 - **All external lighting is existing and is compatible with the lighting in this area.**
 4. The applicant has provided a floor plan which identifies the areas for the primary use and for accessory functions, including but not limited to areas for performances.
 - **The floor plan provided by the applicant with this application identifies the location for the proposed stage and dance floor.**

5. If the establishment is not in the Downtown area, and access to the establishment is from a street other than one classified by the Transportation Master Plan as minor collector or greater, the applicant shall provide a traffic analysis which complies with the City's transportation guidelines. The traffic analysis shall demonstrate that the level of service on all streets accessed by the use meets City standards.
 - **Access to the establishment is via Frank Lloyd Wright Blvd, which is classified as a major arterial, which is the highest volume street classification. Therefore, a traffic analysis is not required for this site.**
6. If the Zoning Administrator determines that a parking study is necessary, the applicant shall provide a study which complies with the City's requirements.
 - **A parking study is not required as part of this request. The floor plan meets the definition of a restaurant per the Zoning Ordinance.**
7. The owner shall provide any additional information required by the Zoning Administrator to evaluate the impacts of the proposed use on the area.
 - **The applicant submitted a floor plan, parking calculations and a security, maintenance and operations plan with their application submittal. No additional information was required by the Zoning Administrator.**
8. All building openings such as doors, windows and movable wall panels shall be closed but not locked, except as permitted by Conditional Use Permit. Doors and service windows may be opened temporarily to allow passage.
 - **The applicant is requesting approval to have sliding doors open to the patio during live entertainment providing unencumbered access to and from the indoor and outdoor spaces. With noise from adjacent traffic and the nearest other business being 200-feet away, and the nearest residential use is approximately 1,600 feet away, it is not likely that the music will be impactful.**
9. No external speakers used for live entertainment or outdoor live entertainment activities will be permitted on the premises of a use that is located within 500 feet of a residential district shown in Table 4.100.A
 - **This establishment is located greater than 500 feet from a property with residential zoning. As such, the applicant plans on adding outdoor speaker on the patio that will be pointing inward towards the building.**
10. The owner and operator shall comply with all plans approved as part of the Conditional Use Permit.
 - **A stipulation requiring compliance with the site plan and floor plan is included as a condition of approval.**

11. All patron entrances shall be illuminated in accordance with the Building Code and the exterior lighting plans approved by the Development Review Board.
 - **All external lighting is existing and is consistent with the lighting plan approved as part of the original Development Review Board approval.**
12. Noise generated from the live entertainment shall conform to the City's Noise Ordinance.
 - **The applicant is aware of the City Noise Ordinance and has indicated the establishment will be in compliance.**

Public Safety

The City's Police Department has reviewed and approved a Public Safety Plan for the proposed use. This request is not anticipated to impact existing service levels for this area of the City. The City's Police Department will need to approve a Public Safety Plan prior to the operation of the live entertainment.

Liquor License Review

The owner has not yet submitted a Liquor License application to the State.

Community Involvement

Both the applicant and City have mailed notifications to property owners within 750 feet of the site about this request. The site is also posted with the Early Notification of a Project Under Consideration sign, and a red public hearing notification sign.

As of the drafting of this report, staff has received a phone call concerning traffic and an e-mail with concerns about the proposal. The e-mail is attached to this report.

OTHER BOARDS AND COMMISSIONS

Planning Commission:

Planning Commission heard this case on July 26, 2017 and recommended approval with a 7-0 vote. At Planning Commission, the applicant was only requesting Live Entertainment on Friday and Saturday evenings. Now, with this request, the applicant requesting the ability to have Live Entertainment any day of the week.

Staff's Recommendation to Planning Commission:

Staff recommended that the Planning Commission find that the Conditional Use Permit criteria have been met, and make a recommendation to City Council for approval a Conditional Use Permit for live entertainment on a +/- 13,042 square foot site with Highway Commercial (C-3) zoning located at 8740 E Frank Lloyd Wright Blvd.

RECOMMENDATION

Recommended Approach:

Find that the Conditional Use Permit criteria have been met and adopt Resolution No. 10879 approving a Conditional Use Permit for live entertainment on a +/- 13,042 square foot site with Highway Commercial (C-3) zoning located at 8740 E Frank Lloyd Wright Blvd.

RESPONSIBLE DEPARTMENT

Planning and Development Services

Current Planning Services

STAFF CONTACT

Keith Niederer
Senior Planner
480-312-2953
E-mail: kniederer@ScottsdaleAZ.gov

APPROVED BY


Keith Niederer, Report Author

7-28-2017
Date


Tim Curtis, AICP, Current Planning Director
480-312-4210, tcurtis@scottsdaleaz.gov

8/11/2017
Date


Randy Grant, Director
Planning and Development Services
480-312-2664, rgrant@scottsdaleaz.gov

8/14/17
Date

ATTACHMENTS

1. Context Aerial
2. Resolution No. 10879
 - Exhibit 1: Aerial Close-Up
 - Exhibit 2: Stipulations
 - Exhibit A to Exhibit 2: Site Plan
 - Exhibit B to Exhibit 2: Floor Plan
 - Exhibit 3: Additional Criteria
3. Applicant's Narrative
4. Zoning Map
5. Citizen Involvement
6. City Notification Map
7. Correspondence
8. Security, Maintenance and Operations Plan
9. July 26, 2017 Planning Commission meeting minutes



101 Restaurant

3-UP-2017

RESOLUTION NO. 10879

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ADOPTING A CONDITIONAL USE PERMIT FOR LIVE ENTERTAINMENT ON A +/- 13,042-SQUARE FOOT SITE WITH HIGHWAY COMMERCIAL (C-3) ZONING LOCATED AT 8740 E. FRANK LLOYD WRIGHT BLVD.

WHEREAS, the Planning Commission held a public hearing on July 26, 2017; and

WHEREAS, the City Council held a public hearing on August 29, 2017.

NOW, THEREFORE, LET IT BE RESOLVED, by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the City Council finds:

- a) that the granting of this conditional use permit per stipulations set forth on Exhibit 2 will not be materially detrimental to the public health, safety or welfare based on, but not limited to, the following factors: damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination and impact on surrounding areas resulting from an unusual volume or character of traffic;
- b) that the characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas; and
- c) that compliance with the additional conditions for live entertainment, set forth on Exhibit 3, is required.

Section 2. That a description of the conditional use permit is set forth in Case No. 3-UP-2017. The property that is subject to the conditional use permit is shown on Exhibit 1 and the conditional use permit approval is conditioned upon compliance with all of the stipulations that are set forth in Exhibits 2 and 3. All exhibits are incorporated herein by reference.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this ____ day of _____, 2017.

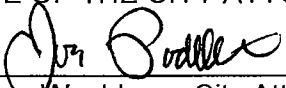
ATTEST:

CITY OF SCOTTSDALE, an Arizona
Municipal Corporation

By: _____
Carolyn Jagger
City Clerk

By: _____
W.J. "Jim" Lane
Mayor

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

By:  _____
Bruce Washburn, City Attorney
By: Joe Padilla, Deputy City Attorney



101 Restaurant

3-UP-2017

Conditional Use Permit – Live Entertainment

Stipulations:

101 Restaurant for

Case Number: 3-UP-2017

These stipulations are in order to protect the public health, safety, welfare, and the City of Scottsdale.

OPERATIONS

1. **CONFORMANCE TO CONCEPTUAL SITE PLAN.** Development shall conform with the conceptual site plan submitted by Tomecak Design and with the city staff date of 5/17/2017, attached as Exhibit A to Exhibit 2. Any proposed significant change to the conceptual site plan as determined by the Zoning Administrator, shall be subject to additional action and public hearings before the Planning Commission and City Council.
2. **CONFORMANCE TO THE CONCEPTUAL FLOOR PLAN.** The interior layout of the premises shall be in substantial conformance with the conceptual floor plan submitted by Tomecak Design and with the city staff date of 5/17/17, attached as Exhibit B to Exhibit 2. Any proposed significant change to the conceptual floor plan as determined by the Zoning Administrator, shall be subject to additional action and public hearings before the Planning Commission and City Council.
3. **NO BAR USE.** This Conditional Use Permit is for live entertainment only, and a bar use is not approved as part of this request.
4. **NO AFTER HOURS.** No after-hours activities at this establishment (after 2:00 AM) are approved as part of this request.
5. **NO ADULT USES.** No adult uses are approved as part of this request.
6. **HOURS OF LIVE ENTERTAINMENT.** The hours of the live entertainment for this establishment shall be limited to:

	Allowed Start of the Live Entertainment	To	Required End of the Live Entertainment
Any day	9:00 p.m.	To	2:00 a.m.

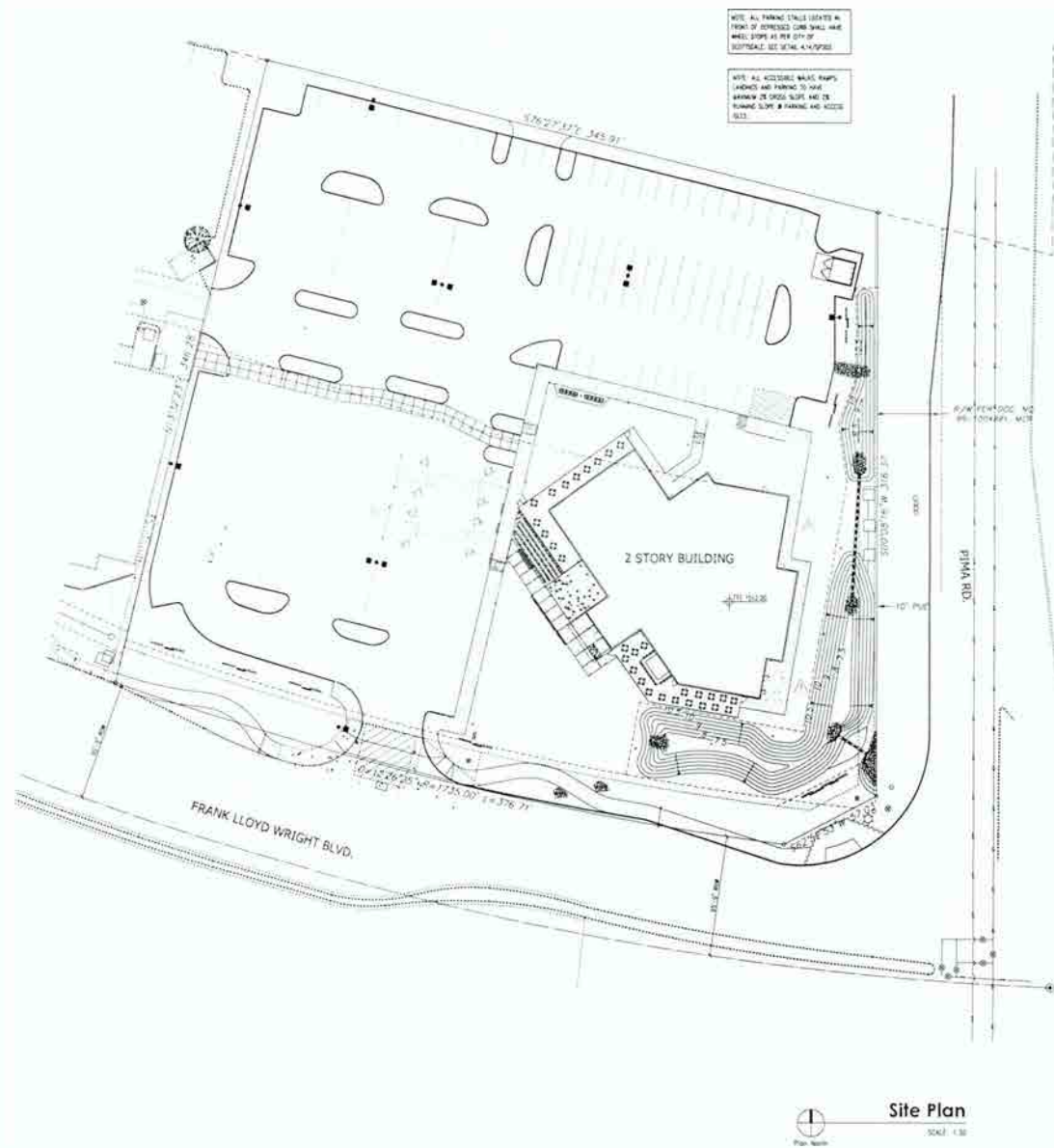
7. **SECURITY, MAINTENANCE, AND OPERATIONS PLAN.** The live entertainment shall conform to the Security, Maintenance, and Operations Plan approved by, and on record with the City of Scottsdale's Police Department and the Planning and Development Services Department. A copy of the approved Security, Maintenance, and Operations shall be maintained on site. Within 10 days after a request by the City Manager or designee, the owner shall provide an update of the Security, Maintenance, and Operations Plan to the Scottsdale Police Department and the Planning and Development Services Department. At least ten (10) days before any operational change of the live entertainment, or any promotional event (excluding Special Events), that modifies the requirements or contents of the Security, Maintenance, and Operations Plan, the owner shall submit a revised Security, Maintenance,

and Operations Plan to the Scottsdale Police Department and Planning and Development Services Department. Any revised Security, Maintenance, and Operations Plan shall be subject to approval by the City of Scottsdale's Police Department and the Planning and Development Services Department.

8. PUBLIC SAFETY PLAN (PSP). Prior to the operation of any live entertainment, the owner shall obtain approval of a PSP from the City of Scottsdale Police Department, and live entertainment shall conform to the approved PSP. A copy of the approved PSP shall be maintained on site. Within 10 days after a request by the City Manager or designee, the owner shall provide an update of the PSP to the Scottsdale Police Department and the Planning and Development Services Division. At least ten (10) days before any operational change of the live entertainment, or any promotional event (excluding Special Events), that modifies the requirements or contents of the PSP, the owner shall submit a revised PSP to the Scottsdale Police Department and the Planning and Development Services Division. Any revised PSP shall be subject to approval by the City of Scottsdale's Police Department and the Planning and Development Services Division. Where the provisions of a Security, Maintenance and Operations Plan conflict with the provisions of a PSP, the provisions that establish the higher standard or protection for public health and safety shall prevail.
9. NOISE. In addition to the City's Noise Ordinance (Ordinance No. 3192, Article II, Chapter 19 of the Scottsdale Revised Code), noise generated from this use, including any speakers or other amplification equipment, shall not exceed ambient noise levels consistent to the use and the character of the area during hours of operation, as determined by the Zoning Administrator, or designee. Amplified music shall be limited to the times that State law allows liquor sales at this establishment.
10. EXTERNAL LIVE ENTERTAINMENT. No external live entertainment is permitted. External doors and windows are permitted to be open during live entertainment.
11. EXTERNAL SPEAKERS. External speakers are allowed to broadcast live entertainment
12. EXTERNAL SPEAKER DIRECTION. External speakers shall be directed towards the building.

ADMINISTRATIVE PROCESS

13. CONDITIONAL USE PERMIT ADMINISTRATIVE REVIEW. Within ten (10) days after a request by the Zoning Administrator or designee, the owner, shall submit a letter to the Zoning Administrator or designee demonstrating compliance with all stipulations. A deviation from any stipulations or change in the floor plan may be grounds for revocation of the Conditional Use Permit.
14. CHANGES IN OWNERSHIP. Within ten (10) days after a change in ownership, the owner shall provide notice to the Zoning Administrator in writing of any such ownership change.



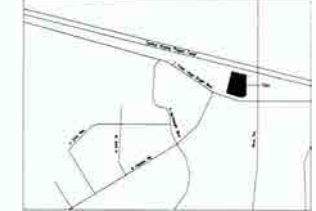
CODE REVIEW

MUNICIPALITY	City of Scottsdale, Arizona
CODE	2018 International Building Code (Amendments) 2018 International Fire Code 2018 International Mechanical Code 2018 International Plumbing Code 2018 International Electrical Code 2018 International Energy Conservation Code
OCCUPANCY TYPE	A-2
CONSTRUCTION TYPE	I-B
FIRE SPRINKLERS	Yes
FIRE ALARM	No
JOINT	0-2
DEVELOPABLE AREA	158,334 sq ft 3.15 acres
LOT COVERING	10.17%
AREA	215-51-022
EDGES	One
BUILDING AREA	Building Area: 11,311 sq ft Floor Area: 1,201 sq ft Total Area: 1,201 sq ft Maximum: 1,201 sq ft
	Open Area: 147,023 sq ft Total Area: 158,334 sq ft Total Area: 158,334 sq ft Total Area: 158,334 sq ft
USE	Use: (1) Use: Restaurant
OCCUPANCY CODE	See: (1) Use: Restaurant
ALLOWABLE HEIGHT	See: (1) Use: Restaurant
ALLOWABLE AREA	See: (1) Use: Restaurant
MAX. AREA ALLOWED	See: (1) Use: Restaurant
MAX. AMPLITUDE	See: (1) Use: Restaurant
MAX. COVERAGE	See: (1) Use: Restaurant

PARKING CALCULATION

Parking Calculation	
Parking spaces required:	
Building:	1,201 sq ft / 120 sq ft = 10.01 spaces
Room:	2,155 sq ft / 150 sq ft = 14.37 spaces
Total spaces required:	24.38 spaces
Parking spaces provided:	24.38 spaces
ADA Parking Required (481):	2.34 spaces
ADA Parking Provided:	2.34 spaces
Space spaces Required (1 per 100):	11.00 spaces
Space spaces Provided:	11.00 spaces
Open space calculation:	
Required open space:	
Max. open height = 36' (provided 36' (unlimited))	
Foot 12' of height = 100' x 36' = 3,600 sq ft	
Foot 24' of height = 100' x 72' = 7,200 sq ft	
Open space required (not including parking on landscaping):	10,800 sq ft
Open space provided = 28,544 sq ft	
Open space required @ least yard: (12,720) (5 x 25,440)	
Total open space @ least yard provided: 14,720 sq ft	
Parking on landscaping required:	
Parking on landscaping required:	10.01 spaces
Parking on landscaping provided: 10.01 spaces	
Parking on landscape provided: 10.01 spaces	

VICINITY MAP



PROJECT: FLW PLAZA
7445 E. 1st St. N. Mesa, AZ 85205

DATE: 01/14/2018

SCALE: 1/8" = 1'-0"

REVISIONS:

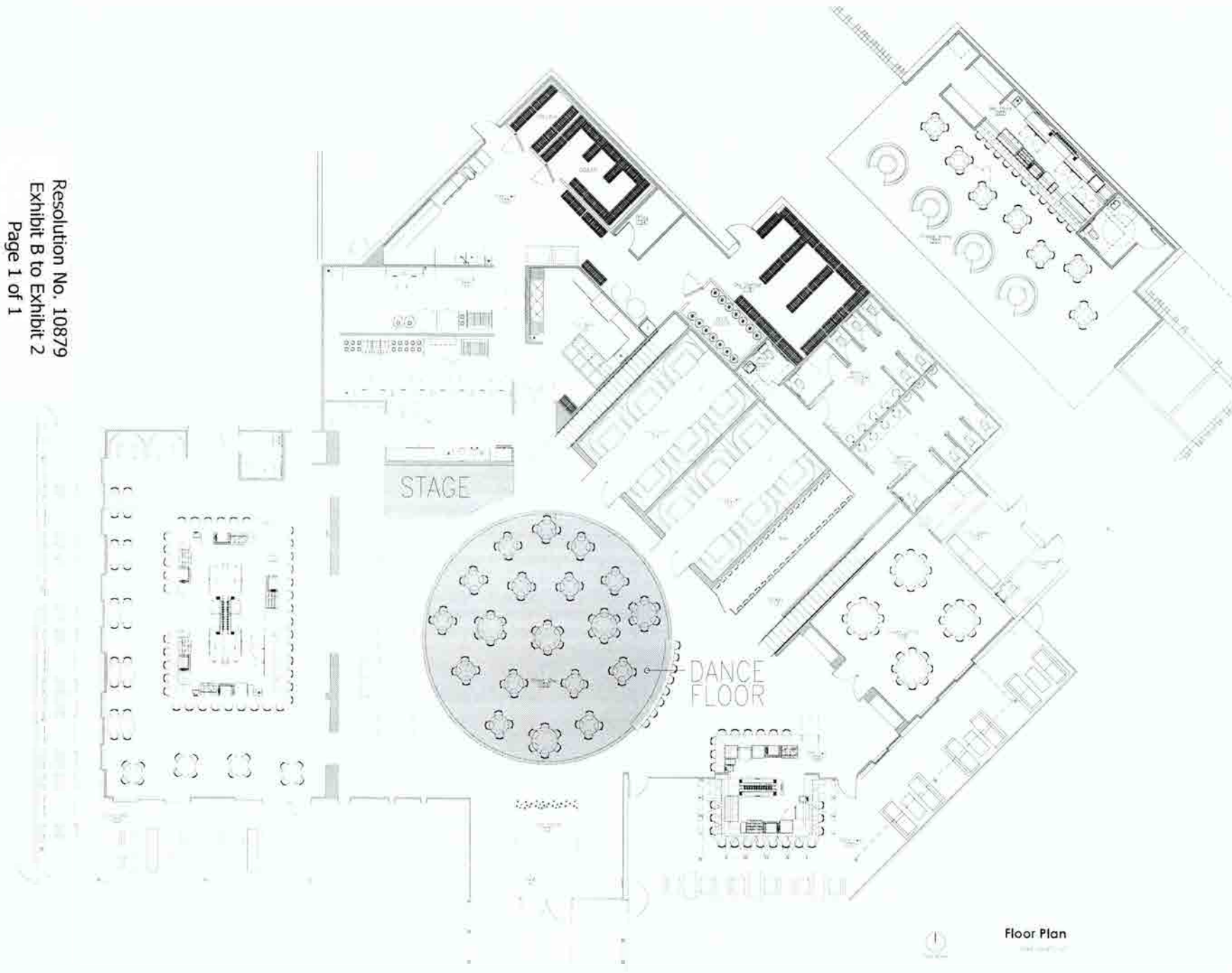
SP 100



Project: FLW Interior
Client: FLW Interior
Architect: Tomecak Design
Scale: 1/8" = 1'-0"
Date: 5/17/17
Drawn by: [Signature]
Checked by: [Signature]

A 100

3-UP-2017
5/17/17



Floor Plan

K.

Live entertainment.

1. The applicant has provided and obtained City approval of a written Security and Maintenance Plan.
2. The applicant has provided written evidence that sound resulting from indoor live entertainment will be contained within the building, except where external speakers are permitted by Conditional Use Permit to allow indoor live entertainment to be heard outdoors.
3. The applicant has provided a lighting plan that addresses exterior lighting on the property, in accordance with Article VII. of the Zoning Ordinance and the Security and Maintenance Plan requirements.
4. The applicant has provided a floor plan which identifies the areas for the primary use and for accessory functions, including but not limited to areas for performances.
5. If the establishment is not in the Downtown Area, and access to the establishment is from a street other than one classified by the Transportation Master Plan as minor collector or greater, the applicant shall provide a traffic analysis which complies with the City's transportation guidelines. The traffic analysis shall demonstrate that the level of service on all streets accessed by the use meets the City's standards.
6. If the Zoning Administrator determines that a parking study is necessary the applicant shall provide a study which complies with the City's requirements.
7. The owner shall provide any additional information required by the Zoning Administrator to evaluate the impacts of the proposed use upon the area.
8. All building openings such as doors, windows and movable wall panels shall be closed but not locked, except as permitted by Conditional Use Permit. Doors and service windows may be opened temporarily to allow passage.
9. No external speakers used for live entertainment or outdoor live entertainment activities will be permitted on the premises of a use, which is located within five hundred (500) feet of a residential district shown on Table 4.100.A.
10. The owner and operator shall comply with all plans approved as part of the Conditional Use Permit.
11. All patron entrances shall be illuminated in accordance with the Building Code and the exterior lighting plans approved by the Development Review Board.
12. Noise generated from the live entertainment shall conform to the City's Noise Ordinance.

101 restaurant
Conditional Use Permit
NARATIVE

Revised June 12, 2017

The request is for approval of a Conditional Use Permit (CUP) to allow for future live musical performances at the 101 restaurant completing construction at the northwest corner of Frank Lloyd Wright Boulevard and the 101 Freeway. The restaurant will be serving lunch, dinner and late dinner from 11:00 am to 2:00 am Monday thru Sunday. Recorded music with DJs is planned initially which is a use permitted by right and does NOT require a Conditional Use Permit (CUP). It is anticipated that there will be music performed live which requires a CUP. Recorded and live music would occur between 9:00pm to 2:00 am. As a full-time restaurant there will be no cover charge or age verification at the door. With meals provided for lunch, dinner and late dinner, more than 40% of the gross revenues will be derived from the sale of prepared food.

The criteria for any CUP are as follows along with responses:

“A. That the granting of such conditional use permit will not be materially detrimental to the public health, safety or welfare. In reaching this conclusion, the Planning Commission and the City Council's consideration shall include, but not be limited to, the following factors:

1. Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
2. Impact on surrounding areas resulting from an unusual volume or character of traffic.”

Response: The restaurant location is isolated by the CAP canal to the north, the Pima/101 Freeway to the east and Frank Lloyd Wright Boulevard to the south. Van's Golf is the only abutting commercial property and is closed during evening hours. The use does not generate smoke, odor, dust, vibration, or change in illumination. The volume or character of traffic will be consistent with other commercial properties in the area and the parking provided is almost twice the amount required by ordinance.

B. “The characteristics of the proposed conditional use are reasonably compatible with the types of uses permitted in the surrounding areas.” *Response: The uses in the surrounding area are exclusively commercial and include the Twin Peaks bar/restaurant and McDonalds fast food restaurant directly across FLWB.*

Additional conditions for a Live Entertainment CUP are as follows along with responses:

“K. *Live entertainment.*

1. The applicant has provided and obtained City approval of a written Security and Maintenance Plan. *Response: A copy of the City-approved Security Maintenance and Operations Plan has been submitted with the application.*
2. The applicant has provided written evidence that sound resulting from indoor live entertainment will be contained within the building, except where external speakers are permitted by Conditional Use Permit to allow indoor live entertainment to be heard outdoors. *Response: There are outdoor patios located on the south (FLW) and west sides of the restaurant and speakers will be provided for both recorded and live music. The speakers will be mounted so as to direct sound inward. The significant background noise created by the freeway and FLWB should preclude music being heard beyond the limits of the property.*
3. The applicant has provided a lighting plan that addresses exterior lighting on the property, in accordance with Article VII. of the Zoning Ordinance and the Security and Maintenance Plan requirements. *Response: A lighting plan was submitted and approved as part of the issuance of the restaurant building permit.*
4. The applicant has provided a floor plan which identifies the areas for the primary use and for accessory functions, including but not limited to areas for performances. *Response: A floor plan has been submitted identifying the uses within the building including the stage area.*
5. If the establishment is not in the Downtown Area, and access to the establishment is from a street other than one classified by the Transportation Master Plan as minor collector or greater, the applicant shall provide a traffic analysis which complies with the City's transportation guidelines. The traffic analysis shall demonstrate that the level of service on all streets accessed by the use meets the City's standards. *Response: The restaurant fronts on the 101 Freeway and FLWB which is a major arterial and therefore a traffic analysis is not required.*
6. If the Zoning Administrator determines that a parking study is necessary the applicant shall provide a study which complies with the City's requirements. *Response: A parking study has not been required and the project provides nearly twice as much parking as required by ordinance.*
7. The owner shall provide any additional information required by the Zoning Administrator to evaluate the impacts of the proposed use upon the area. *Response: No additional information has been requested or required.*
8. All building openings such as doors, windows and movable wall panels shall be closed but not locked, except as permitted by Conditional Use Permit. Doors and service windows may be opened temporarily to allow passage. *Response: The proposal is to have doors open to the patio areas weather permitting for unencumbered access to and from the indoor and outdoor spaces. The music sound levels will adhere to the City's Noise Ordinance*
9. No external speakers used for live entertainment or outdoor live entertainment activities will be permitted on the premises of a use, which is located within five hundred (500) feet of a residential district shown on Table 4.100.A. *Response: There are no residential areas within 500 feet.*

10. The owner and operator shall comply with all plans approved as part of the Conditional Use Permit. *Response: The owner and operator will comply.*

11. All patron entrances shall be illuminated in accordance with the Building Code and the exterior lighting plans approved by the Development Review Board. *Response: The lighting plan was approved by the Development Review Board and subsequently by the City as part of the issuance of the building permit.*

12. Noise generated from the live entertainment shall conform to the City's Noise Ordinance.” *Response: Music from both live and recorded sources will conform to the City's noise ordinance.*



101 Restaurant

3-UP-2017

**Live Entertainment CUP
101 restaurant**

NEIGHBORHOOD NOTIFICATION REPORT

Letters describing the proposed application have been mailed to property owners within 750' of the property and the interested parties list. The letters included description of the proposal, graphic showing the location of the property and site plan, case file number, city website, and applicant/staff contact information. A Project Under Consideration sign has been posted on the property. A copy of the mailed letter and Affidavit of Posting is enclosed.

Live Entertainment CUP
101 Restaurant
07.11.17

Citizen Review Report

Letters describing the proposed application were mailed to property owners within 750' of the property and the interested parties list. The letters included description of the proposal, graphic showing the location of the property and site plan, case file number, city website, and applicant/staff contact information. A white Project Under Consideration sign was posted on the property followed by and a red sign announcing the proposed use and Planning Commission hearing. A copy of the mailed letter and Affidavit of Postings is enclosed.

Since the original notifications in October only one individual responded to the proposal via email to the City's project coordinator and forwarded to the applicant. The individual is a property owner in a former oil lube facility located over 600 feet from the proposed use separated by 5 businesses (Van's Golf, Dunn Edwards, the former Jerry's Audio, and Sun Devil Auto).

The individual expressed concerns regarding the proposed use and the applicant responded by telephone regarding the following concerns:

: rumors about the restaurant not being a high-end restaurant but becoming a nightclub use.

The response was that the restaurant was indeed planned to be a high-end restaurant as evidenced by the quality and cost of construction of the restaurant building and site improvements. Likewise the proposed live entertainment would occur on Friday and Saturday nights unlike a nightclub use which is a 7 day operation.

: potential for intoxicated persons wandering through the area.

The response was that it was presumptuous to assume patrons would be intoxicated and wander a full City block onto or near his property.

: maintenance of the vacant Jerry's Audio and possible maintenance issues with the proposed use.

The response was that the former Jerry's Audio property would be inspected and any deficiencies would be corrected (which was done). There will be a high level of maintenance on the occupied restaurant site.

: the introduction of live entertainment being a precursor to an adult entertainment use.

The response was there will absolutely be no adult use now or in the future.

Michael P. Leary, LTD

10278 E. Hillery Drive
Scottsdale, Arizona 85255

Cell (480) 991-1111

DATE: October 24, 2016

TO: 101 restaurant - neighboring property owners and other interested parties

FROM: Mike Leary, Development Consultant 

RE: Application for a Conditional Use Permit (CUP) for Live Entertainment (musical performances) for the 101 restaurant at 8740 E. Frank Lloyd Wright Boulevard

The City of Scottsdale requires notification of pending applications to interested persons and property owners within 750' of subject properties. This request is for approval of a CUP to allow live musical performances at the 101 restaurant completing construction at the northwest corner of Frank Lloyd Wright Boulevard and the 101 Freeway. Recorded music with DJs is planned initially and is a use permitted by right. It is anticipated that there will be future occasions when music will be performed live which requires a CUP. The live musical performances will be performed within the building only.

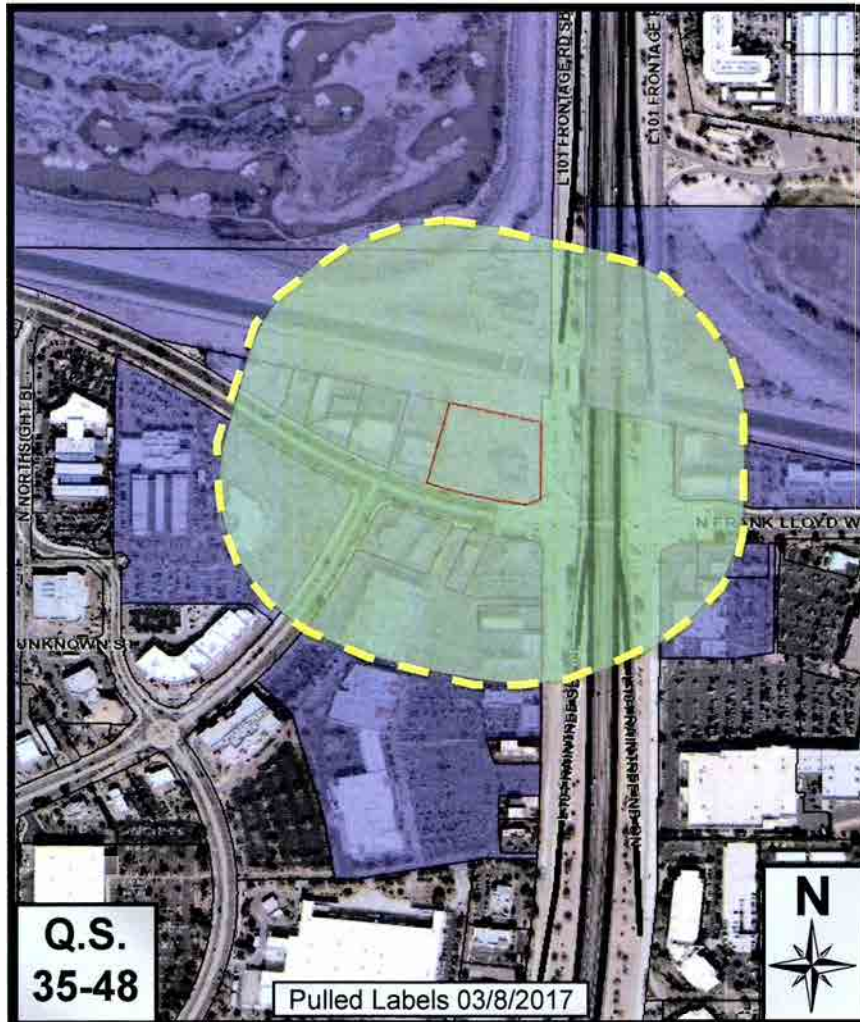
The restaurant location is isolated by the CAP canal to the north, the Pima/101 Freeway to the east and Frank Lloyd Wright Boulevard to the south. The volume or character of traffic will be consistent with other restaurants in the area and the parking provided is almost twice the amount required by ordinance. There are outdoor patios located on the southern (FLWB) and western sides of the restaurant and speakers will be provided and directed inward towards the building. The significant background noise created by the Freeway and FLWB will preclude music being heard beyond the limits of the property. Sound levels will conform to the City's noise ordinance. A copy of the building location and site plan is attached.

If you should have any questions please feel free to contact me and/or Keith Niederer our Project Coordinator at the City of Scottsdale who can be reached at 480.312.2953 and kniederer@scottsdaleaz.gov. The preliminary application case number is 337-PA-2016 and the City's website is www.scottsdaleAZ.gov/projects/ProjectsInProgress

Thank you! ML

attachment

City Notifications – Mailing List Selection Map



Map Legend:

- Site Boundary
- - - Properties within 750-feet
- 45 Postcards

Additional Notifications:

- Interested Parties List
- Adjacent HOA's
- P&Z E-Newsletter
- Facebook
- Twitter
- Nextdoor.com
- City Website-Projects in the hearing process

101 Restaurant

3-UP-2017

Niederer, Keith

From: hugh casiano <hughcasiano@gmail.com>
Sent: Monday, November 07, 2016 4:02 PM
To: Niederer, Keith
Subject: 101 Restaurant Case #337-PA-2016

Dear Sir,

This letter is to inform you of the concerns I have regarding any application for Live Entertainment at the 101 Restaurant project located at the Northwest corner of Frank Lloyd Wright and Pima / 101.

When I purchased my building located at 8650 East Frank Lloyd Wright Blvd I was made aware that a high end restaurant was being built on the corner. I welcomed the opportunity to have an upscale crowd attracted to the neighborhood. Unfortunately, it is rumored that the owner is looking to create a nightclub atmosphere, which is not at all what I had hoped for this area.

We are in the automotive accessorizing business and often store cars of extremely high value (Rolls Royce, Bentley, McLaren, Mercedes, etc...). Part of the renovation we are doing to the building is to add glass storefronts and brightly light the interior of our facility, which will showcase these high end cars. The potential of intoxicated patrons wandering through our area creates an additional burden on my business that I did not anticipate. This is a major concern because we are located directly in between the 101 Restaurant and the gas station / convenience store.

Further, if I am correct, the same owner that is involved in the 101 Restaurant is also the owner of the former 'Jerry's Audio' building. This building has been an eye sore since we have moved here. There is constant garbage and debris in addition to overgrown landscaping on this property, which does not make me feel this owner can manage the additional maintenance that would be required by a venue that hosts live entertainment. As an assumption on my part, it would seem that high end restaurant patrons would not be as messy as live entertainment patrons.

Lastly, it is my understanding that the owner is also in the adult entertainment business. I believe the introduction of a live entertainment permit would allow this property to become open to further permission and possibly lead to an adult entertainment use. Obviously, I have concerns that this would considerably lower the value of a property I will invest over a million dollars in.

Hopefully you can see I have multiple concerns regarding anything except a high end restaurant use for this property. I am currently against any permits regarding live entertainment there.

Respectfully submitted,

Hugh Casiano - Owner
Casiano Holdings LLC
8650 E Frank Lloyd Wright Blvd
Scottsdale, AZ 85260
(602)399-4844 direct cell
hughcasiano@gmail.com

Niederer, Keith

From: Gary Minarich <gjminarich@sprintmail.com>
Sent: Monday, July 24, 2017 9:35 PM
To: Niederer, Keith
Cc: Grant, Randy; Littlefield, Kathy; Thompson, Jim; Curtis, Tim; Niederer, Keith
Subject: Re: Gentlemen's Club in North Scottsdale?

Councilwoman Littlefield & Mr. Niederer,

Thank you very much for the update. This is certainly encouraging news.

Best regards,

Gary Minarich
e: gjminarich@sprintmail.com

On Jul 24, 2017, at 4:21 PM, Niederer, Keith <KNiederer@Scottsdaleaz.gov> wrote:

Mr. Minarich,

Thank you for your e-mail. The applicant has submitted a Conditional Use Permit application to allow for Live Entertainment at the future restaurant at 8740 E. Frank Lloyd Wright Blvd. The Live Entertainment would be for live musical performances on Friday and Saturday nights from 9PM to 2AM. The Conditional Use Permit, if approved, wouldn't allow for adult uses such as a gentleman's club.

The application, case number is 3-UP-2017, is scheduled for a Planning Commission hearing this Wednesday (7/26) at 5PM. Below is a link to the Planning Commission Report.
http://eservices.scottsdaleaz.gov/planning/projectsummary/pc_reports/PC_3_UP_2017.pdf

August 29th is the tentative City Council hearing date for this application.

Please let me know if you have any questions.

Keith Niederer
Sr. Planner – City of Scottsdale

From: Grant, Randy
Sent: Monday, July 24, 2017 2:35 PM
To: Niederer, Keith
Subject: FW: Gentlemen's Club in North Scottsdale?

From: Littlefield, Kathy
Sent: Monday, July 24, 2017 2:30 PM
To: Gary Minarich

Cc: Grant, Randy; Thompson, Jim
Subject: RE: Gentlemen's Club in North Scottsdale?

Gary:

Thank you for your email.

I am copying Mr. Randy Grant, our Planning and Development Director, so he can respond to you directly with any new communications he may have received regarding this site.

Best,

Councilwoman Kathy Littlefield

From: Gary Minarich [gjminarich@sprintmail.com]
Sent: Saturday, July 22, 2017 12:04 PM
To: Littlefield, Kathy
Cc: Grant, Randy; City Council
Subject: Re: Gentlemen's Club in North Scottsdale?

Dear Council Member Littlefield,

Following up on our earlier communication concerning this restaurant becoming a potential "gentlemen's club", I see that the establishment has requested city approval for live entertainment to be conducted within the premises. This alarms me given the proprietor's previous involvement with such clubs along with the fact that the establishment has not yet begun any kind of operations pending such approval. This seems to me to be a large red flag.

I am hopeful and appreciative that you will get all of your questions answered to ensure that there is not any form of live adult entertainment hosted on these premises (located on the northwest corner of 101 and FLW).

Many thanks again for your position on this issue as well as all that you continue to do to preserve the unique character of Scottsdale.

Best regards,
Gary Minarich

Gary Minarich
e: gjminarich@sprintmail.com

On Aug 12, 2016, at 12:27 PM, Littlefield, Kathy <KLittlefield@Scottsdaleaz.gov> wrote:

Randy: Thank you. You have answered my questions.

Vice Mayor Kathy Littlefield

From: Grant, Randy
Sent: Friday, August 12, 2016 12:23 PM
To: 'Gary Minarich'
Cc: Littlefield, Kathy; City Council
Subject: RE: Gentlemen's Club in North Scottsdale?

Mr. Minarich, I agree that the building is not what is typical for a restaurant. Your suggestion that an adult use be required to go through a public process is exactly what would be required if the owner attempted to open an adult use. A conditional use permit would be required, and the public would be able to participate in that hearing process before a decision was made by City Council. Thanks!

Randy Grant

Director, Planning and Development Services
7447 E. Indian School Road, Suite 105
City of Scottsdale, Arizona 85251

480-312-2664

<image001.jpg>

From: Gary Minarich [<mailto:gjminarich@sprintmail.com>]

Sent: Friday, August 12, 2016 11:27 AM

To: Grant, Randy <RGrant@Scottsdaleaz.gov>

Cc: Littlefield, Kathy <KLittlefield@Scottsdaleaz.gov>; City Council
<CityCouncil@scottsdaleaz.gov>

Subject: Re: Gentlemen's Club in North Scottsdale?

Randy,

Thank you very much for the update. Another concerning aspect that may signal this owner's future intent has to do with the building's physical structure - there is a conspicuous lack of windows and a general 'closed off' architectural style that does seem to make it more suitable for adult use.

Ms. Vice Mayor,

Cycling back to the city council for their thoughts, I would be very interested to know if the council would consider proactively establishing an ordinance or other set of legal guidelines that would apply to any adult use facility that would require inclusion of community input and public hearings prior to the granting of any such commercial adult-use license.

Best regards,
Gary Minarich

On Aug 12, 2016, at 10:46 AM, Grant, Randy <RGrant@Scottsdaleaz.gov> wrote:

Gary,

I'm not sure I can clear it up but I'm very familiar with it. This building came in for a building permit over a year ago. Staff was suspicious about the owner's intent right away, since he (Cooper) was well-known for his history of operating gentlemen's clubs in other states. He applied for a permit as a restaurant and was approved for a restaurant.

If he tries to open an adult use at this location he will be required to obtain a conditional use permit that City Council would approve or deny. Rumors have persisted but nothing solid about plans for more

than a restaurant. Will certainly keep you apprised of any new developments in this. Thanks!

Randy

From: Gary Minarich [<mailto:gjminarich@sprintmail.com>]
Sent: Friday, August 12, 2016 9:38 AM
To: Littlefield, Kathy
Cc: Grant, Randy; Biesemeyer, Brian K
Subject: Re: Gentlemen's Club in North Scottsdale?

Dear Ms. Vice Mayor,

Thank you for your reply and thoughts. I strongly agree with your views as this would be a very concerning development should such a club be developed on that corner. I look forward to hearing from Mr. Grant.

Regards,
Gary Minarich

On Aug 12, 2016, at 9:02 AM, Littlefield, Kathy
<KLittlefield@Scottsdaleaz.gov> wrote:

Gary:

Thank you for your email.

To answer your question to the Council, I would not be in favor of such a club located at there. It is not an appropriate location.

However, your email is the first I've heard of this kind of club being requested there. Therefore, I am copying this reply to Mr. Randy Grant, our Director of Planning and Development, so he can respond directly to your concern.

Vice Mayor Kathy Littlefield

From: Gary Minarich [gjminarich@sprintmail.com]
Sent: Thursday, August 11, 2016 7:04 PM
To: Lane, Jim
Cc: City Council
Subject: Gentlemen's Club in North Scottsdale?

Mayor Lane and City of Scottsdale Councilmembers:

I would appreciate the city council's comments and views on whether the property recently under construction and located at 8740 E Frank Lloyd Wright Blvd (Northwest Corner of FLW and Pima) is being considered for a license to operate as a Gentlemen's Club (more commonly referred to as a 'strip club'). I ask this question given that tenants located around this

property have indicated that their understanding is that a Gentlemen's Club will indeed be established in this location. This is supported by additional evidence obtained via the AZ Corporate Commission website that shows that the operating manager of FLW & Pima LLC (STEVEN C COOPER SR) is also the president of Entertainment, USA Inc, a Memphis, TN based company which is the parent company of Christie's Cabaret Gentlemen's Clubs.

If this information is correct, and the owner is seeking a license to operate a strip club, I am curious what the mayor's and city council's views are. It is my understanding that there are city ordinances that are in place to prevent such clubs from proliferating in our family –friendly city of Scottsdale.

Regards,

Gary Minarich
e: gminarich@sprintmail.com

CONFIDENTIALITY NOTICE: This e-mail message is for the personal and confidential use of the recipient(s) named above. This message may also contain privileged client information or work product. If you as the reader of this message are not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this message in error, please notify us immediately by e-mail, and delete the original message and any attachments.

Instructions for Security, Maintenance, and Operations Plans

Follow these steps for Review and Approval

Scottsdale Police Department Liquor Investigations

Step 1

**Prepare Your Security, Maintenance, and Operations
Plan (SMO Plan)**

Step 2

**Send a Copy of Your SMO Plan to the Scottsdale Police
Department.**

Detective John Miller

480.312.8333

JohMiller@scottsdaleaz.gov

Step 3

Contact Police Detective to Discuss Your Plan.

Step 4

Meet with Police Detective, If Necessary.

Step 5

**Submit your reviewed plan to Scottsdale Planning and
Development.**

400200

SECURITY, MAINTENANCE AND OPERATIONS PLAN

For Bars and Live Entertainment Use Permits



Scottsdale Police Department, 3700 North 75th Street, Scottsdale, AZ 85251

480.312.5000 FAX 480.312.7701

City of Scottsdale Planning, 7447 E. Indian School, Scottsdale AZ 85251

480-312-7000 FAX 480-312-7088

Assigned Planner: Keith Niederer

Police Detective: John Miller

Establishment: 101 (pending name)

Address: 8740 E. Frank Lloyd Wright Blvd

Business Phone: TBD

Business FAX: TBD

Maximum Occupancy: 653

Effective Date of the Plan: 02.15.17

Date of Plan Review: 022817

Use Permit Issue Date: TBD

Liquor License Number: TBD

Contact Person (1): Rickie Hastings

Home Phone: (cell) 901.767.5186

Contact Person (2): Steven Cooper

Home Phone: (cell) 901.337.7000

Purpose of the Plan

To address security measures, maintenance/refuse and operations for an establishment whose use shall require a Security Plan pursuant to Scottsdale Revised Codes. These uses typically include a Bar Use Permit and a Live Entertainment Use Permit. The contents of this plan will address the listed concerns as well as community concerns regarding:

- Any significant increase in vehicular or pedestrian traffic, including effects on parking, traffic and circulation in the area.
- Adequate control of disruptive behavior both inside and outside the premises to include property damage and refuse issues.
- Compatibility with surrounding structures and uses.

It is the intent of the City of Scottsdale to provide an environment that enhances the safeguarding of property as well as public welfare and to limit the need for law enforcement involvement.

The Permittee agrees that successful execution and enforcement of this Plan are a required condition of the use permit. Termination, cancellation, deviation or non-approval of the Plan constitutes a breach of the Plan and could result in the revocation of the use permit.

Operations and Hours

1. Permittee Four Flames, LLC
 :
 Type of Organization: Arizona Corporation Corporation
 Sole Proprietorship X LLC
 Partnership Other

2. Managing Agents Name: **Steven Cooper**
 Title: **Member/Manager**
 Address: **3500 E. Lincoln Drive Lot 52**
 Phoenix, AZ 85018
 Phone Number: **901.767.5186**
 Fax or Other Numbers: **n/a**

3. Business Owner(s) (if different than Managing Agent) **Steven Cooper and Cindy Cooper, same address and phones numbers as above**

4. Property Owner or Property Manager (if different from Managing Agent)
FLW & PIMA, LLC, Steven Cooper Member/Manager, 5100 Poplar Avenue #2114 Memphis TN 38137 901.767.5186

5. Hours of Operation:

	<u>Peak/Non- Peak Night</u>	<u>Open to Customers</u>	<u>Liquor Sale Begin</u>	<u>Liquor Sale Ends</u>	<u>Closed to Customers</u>
Monday	NON	11:00 am	11:00 am	2:00 am	2:30 am
Tuesday	NON	11:00 am	11:00 am	2:00 am	2:30 am
Wednesday	NON	11:00 am	11:00 am	2:00 am	2:30 am
Thursday	NON	11:00 am	11:00 am	2:00 am	2:30 am
Friday	PEAK	11:00 am	11:00 am	2:00 am	2:30 am
Saturday	PEAK	11:00 am	11:00 am	2:00 am	2:30 am
Sunday	NON	11:00 am	11:00 am	2:00 am	2:30 am

6. Promotional Events: *(Attach an addendum which describes week to week promotional events you plan to have throughout the year i.e. "Ladies night." Do not include special events)* **NONE**

7. Program Format/Entertainment/Advertising: *(Complete for Live Entertainment Use Permit Only. Attach addendum that describes*

entertainment format i.e. DJ, Live music, Comedy acts etc.) See Scottsdale Revised Code -- Appendix B, Zoning Ordinance for definitions. *See Addendum*

8. Special Events: *N/A*

Permittee must give notice to City of Scottsdale Planning and Development at least forty-five (45) days prior to conducting Special Events on the premises. "Special Events" are any program formats varying from the regular format and audiences described or provided above organized or planned by Permittee. Scottsdale requires separate licenses for outdoor special events.

9. Cooperation/Complaints/Concerns:

Permittee will maintain communications with establishments located on and adjacent to the premises, and with residents and other businesses that may be affected by patrons or operations of the Permittee. Permittee designates the following person to receive and respond to concerns or complaints from other residents or businesses:

Name: Steven Cooper Address: 3500 E. Lincoln Dr. Lot 52 Phoenix AZ 85018
Phone: 901.337.7000

Permittee, managing agents, on-duty managers, supervisors and security personnel will cooperate closely with Scottsdale Police, City of Scottsdale Code Enforcement staff or other City staff as well as business and residential neighbors in addressing and investigating complaints, criminal acts, refuse issues and any other concerns.

Security and Maintenance

Security Attire

Security personnel must be readily identifiable to police, patrons, and other employees to ensure the safety of the security staff when engaged with patrons. Security personnel should wear an appropriate styled shirt with the word "security" on both the front and back, in two (2) inch lettering and clearly visible. During cold weather, a jacket with the same inscription should be worn.

The use of radios should be employed between security staff and management when the size of the establishment limits communication efforts.

Security Officer Responsibilities

The Permittee or management must clearly delineate the below responsibilities to all new security personnel and ensure these responsibilities are explained and understood.

Civilian Security Officers will be responsible for patrolling the full property of the liquor establishment during all hours when patrons are in the establishment, outside the establishment, and in the establishment parking areas.

On peak nights, there will be a minimum of 0 uniformed security officer(s). (Wearing the above-described uniform). The following responsibilities shall be agreed upon and adhered to:

1. 0 Security officer(s) will be responsible for roaming the interior of the business and identifying hazards, problems, and maintaining guest safety.
2. 0 Security officer(s) will be responsible for checking identifications at the front door. Acceptable identification are those listed in Arizona Revised Statutes Title 4, section 241A and apply to patrons accessing any area of the licensed premises, including the time period of After-Hours, if applicable. Additional responsibilities shall include: access control, counting of patrons, and prevention of intoxicated persons from entering the business.
3. 0 Security officer(s) will be responsible for conducting roaming patrol of the exterior in an effort to prevent criminal behavior, maintain the peace and prevent refuse issues. This patrol shall include all parking areas to prevent a gathering of patrons during business hours and up to thirty (30) minutes after closing.

In addition, security officers will report all acts of violence to management personnel, complete a written report, log the act of violence, and contact Scottsdale Police Department immediately. Liquor establishment management and/or ownership has the ultimate responsibility for the recording of the act of violence, logging of the act of violence, and reporting the act of violence to the police department and the State Department of Liquor Licenses.

Management Responsibilities

The Permittee must clearly delineate the below responsibilities to all managers, assistant managers, and person(s)-in-charge and ensure these responsibilities are understood and followed.

The manager(s) shall ensure that all employees, security staff and off-duty officers (if applicable) be trained and knowledgeable about the contents of this plan. The following shall be agreed upon and adhered to:

1. There will be a minimum of 1 manager(s) available during peak nights.
2. There shall be a general manager and one assistant manager on duty all hours while open for business and for thirty minutes after closing.
3. A manager shall be identified as the "Security Manager" for the establishment and be responsible for ensuring that a safe environment exists; for the supervision of all security personnel and that all security personnel as identified here shall meet or exceed the requirements established by A.R.S. 32-2621 through A.R.S. 32-2636, as amended, relating to security personnel and guards, and any regulation issued pursuant thereto.
4. At least one security manager will be on duty until one hour after closing or the last security officer is off duty, whichever occurs last.

Uniformed Sworn Officer Responsibilities:

If Off-duty law enforcement is used for security, it is the responsibility of the Permittee or management to clearly delineate the following responsibilities, which include at a minimum the following:

1. Conduct traffic control as needed.
2. Assist civilian security officer(s) in removal of disorderly and/or intoxicated guests and maintain the peace outside the establishment.
3. If necessary, patrol the exterior portions of the business to maintain the peace as well as prevent criminal acts.
4. If a valet is utilized, maintain the peace in the area of the valet.
5. Assist Security Officers with maintaining order in the entrance line and assist in discovery of underage patrons attempting admittance.

☒ I plan to hire 2 officer(s) during peak nights from (name of agency) **Scottsdale Police**

I do not plan to hire off-duty law enforcement.

Parking

In order to reduce criminal activity that negatively affects the nearby businesses, the Permittee is responsible for the designated parking area to include any lots used by the Permittee's contracted valet company. It is the Permittee's responsibility to ensure that parking areas utilized by patrons and employees will be routinely patrolled by security staff so parking areas are not used: as a gathering place; for consumption of spirituous liquor; for violations of state or city law; for acts of violence, or disorderly conduct. Management will ensure that all patrons have left the parking areas within thirty minutes after the designated closing time.

If valet is used, it is the Permittee's responsibility to ensure the valet company meets all the requirements of the City of Scottsdale and has a valid valet license and permit prior to conducting valet business.

Refuse Plan

It is the Permittee's responsibility to ensure refuse containers are properly used and the area in and around the business is kept clean. Failure to do so will result in an investigation and possible citation from the City of Scottsdale Code Enforcement or other governmental agencies.

At closing, management will be responsible for refuse pick-up and any appropriate cleaning, for any refuse found within a 300 foot (three hundred) radius of the business. This will also include patron parking lot(s), valet parking lot(s) and employee parking lot(s). All bottles, trash, bodily fluids or secretions and refuse found on streets, sidewalks, private property, and empty lots within the above designated areas will be placed in the refuse container or cleaned appropriately.

Enforcement of Security Plan

Violations of this Security Plan will be enforceable by City of Scottsdale Police Officers and/or Code Enforcement employees and may constitute grounds for revocation of applicable use permits relating to the establishment.

Violation, amendment, revocation, as defined in Scottsdale City Zoning Code Sec. 1.402.

Conditional use-permits, which have been approved by the City Council, shall be subject to the following procedures and criteria regarding any violation, amendment, or revocation.

- The violation of any condition imposed by the conditional use permit shall constitute a violation of this ordinance and shall be subject to the requirements of Section 1.1400 et seq.
- Conditional uses shall be developed in conformance to the approved plans as determined by the Zoning Administrator. An amendment to a conditional use permit is required before implementation of any material change in the scope and nature of an approved conditional use, material change in any conditions or stipulations to a conditional use permit or material change in the physical size, placement or structure of property subject to a conditional use permit. The Zoning Administrator shall have the discretion to determine if a proposed change warrants an amendment. An amendment must be approved as provided in Section 1.400 et seq. for the approval of conditional use permits.
- The Zoning Administrator may recommend to the City Council and the City Council may affect revocation of a conditional use permit pursuant to Section 1.402 of the Scottsdale Zoning Code for acts including but not limited to:
 1. A violation of the Plan.
 2. Violation of the conditions of the Use Permit.
 3. Violation of Scottsdale ordinances or law.
 4. Repeated acts of violence or disorderly conduct as reflected by police calls for service or offenses occurring on premises utilized by patrons of the Permittee, or failure to report acts of violence
 5. Failure of the Permittee to take reasonable steps to protect the safety of persons entering, leaving or remaining on the premises when the Permittee knew or should have known of the danger to such person, or the Permittee fails to take reasonable steps to intervene by notifying law enforcement officials or otherwise to prevent or break up an act of violence or an altercation occurring on the premises or on premises utilized by patrons and employees of the Permittee when the Permittee knew or reasonably should have known of such acts of violence or altercations.
 6. Any enlargement or expansion of the premises, plan of operation or program format without appropriate approval from the City.
 7. Misrepresentations or material misstatements of the Permittee, its agents or employees.

Dissemination of the Security Plan

- A copy of this security plan must be provided to each security officer and off-duty sworn law enforcement officer as well as the manager(s) and assistant manager(s) employed by the permittee.
- A reading log will be maintained and will be signed by each of the above persons, stating they have read and understood this plan. Each security employee must read the plan once per year, or when there are any changes to the plan.
- A current copy of this plan will be maintained on the premises at all times, and a copy of this plan must be made available upon request of any code enforcement officer or police officer.
- Failure to conform to this plan will be considered a violation of the use permit.

Termination of the Plan

This plan shall terminate when the applicant's Use Permit terminates.

Enclosures

☒ Addendum attached (PSP, LIVE ENTERTAINMENT, MAP, EMAIL)
☐ No enclosures

APPLICANT/MANAGEMENT:

Name: *Michael Leary*
Address: *10278 E. Hillery Drive Scottsdale AZ 85255*
Phone: *480.991.1111*
Date: *02.15.17*

Signature: _____

APPROVED BY:

Detective:

Phone:

Date:

Signature: _____

JOHN MILLER
480.312.8333
02/28/17
John Miller

Michael P. Leary, LTD

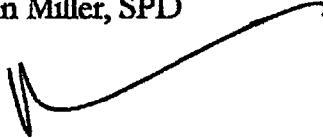
10278 E. Hillery Drive
Scottsdale, Arizona 85255

Cell (480) 991-1111

DATE: February 21, 2017

TO: Detective John Miller, SPD

FROM: Mike Leary



RE: 337-PA-2016 – 101 restaurant Public Safety Plan Acknowledgment

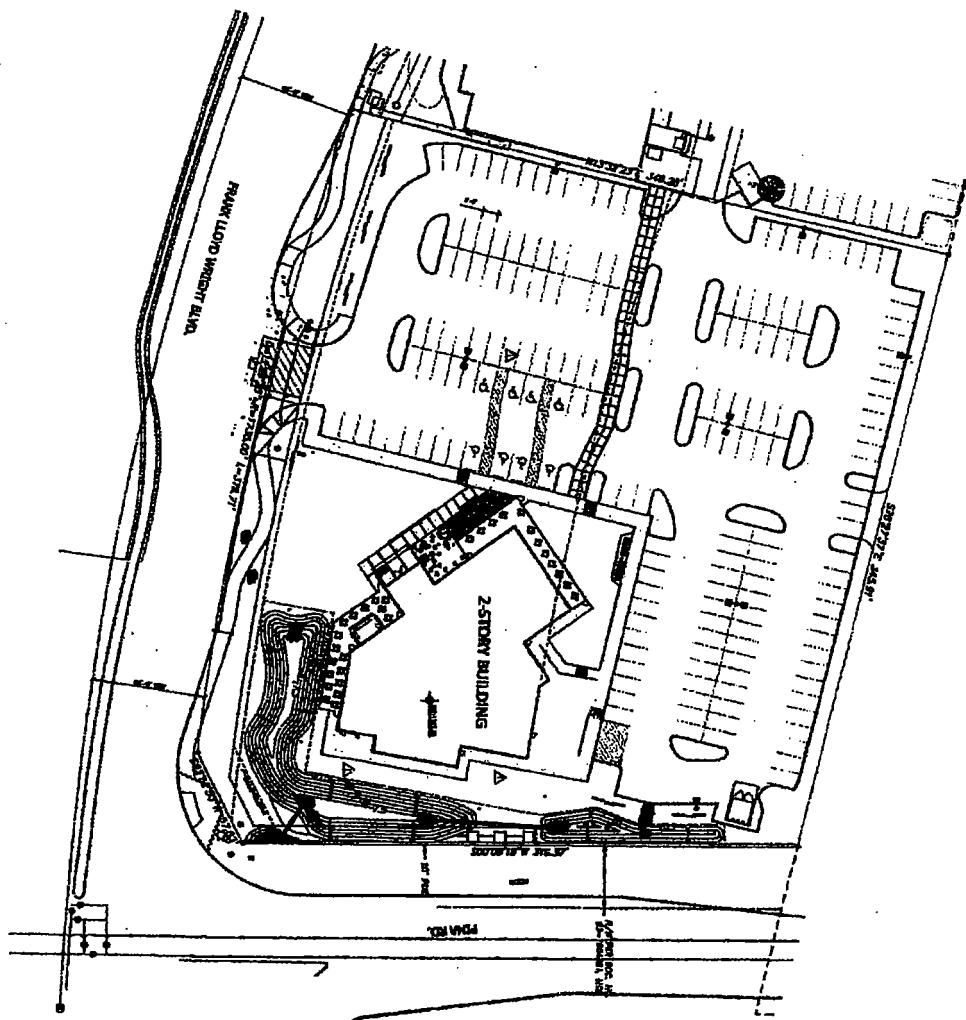
John this letter acknowledges that the required Public Safety Plan will be submitted and approved PRIOR to operation.

Thanks for your help John. ML

ADDENDUM

Live Entertainment Program

As a very upscale restaurant there are anticipated live musical performances by groups playing contemporary/classic/indie rock, jazz, and R&B. There will also likely be music performed by solo acoustic artists and DJs both of which are allowed by right.



Approved – 8/9/17 - aa



**SCOTTSDALE PLANNING COMMISSION
KIVA-CITY HALL
3939 DRINKWATER BOULEVARD
SCOTTSDALE, ARIZONA**

WEDNESDAY, JULY 26, 2017

*** SUMMARIZED MEETING MINUTES ***

PRESENT: Paul Alessio, Chair
Ali Fakhri, Vice Chair
Larry S. Kush, Commissioner
Prescott Smith, Commissioner
Kelsey Young, Commissioner
Kevin Bollinger, Commissioner
Christian Serena, Commissioner

STAFF: Tim Curtis
Joe Padilla
Alex Acevedo
Steve Perone
Casey Steinke
Jeff Barnes
Keith Niederer
Dan Symer

CALL TO ORDER

Chair Alessio called the regular session of the Scottsdale Planning Commission to order at 5:00 p.m.

ROLL CALL

A formal roll call was conducted confirming members present as stated above.

MINUTES REVIEW AND APPROVAL

1. Approval of June 28, 2017 Regular Meeting Minutes including Study Session.

Commissioner Kush moved to approve the June 28, 2017 regular meeting minutes, Seconded by Commissioner Young. The motion carried unanimously with a vote of seven (7) to zero (0).

* Note: These are summary action minutes only. A complete copy of the meeting audio is available on the Planning Commission page on ScottsdaleAZ.gov, search "Planning Commission"

EXPEDITED AGENDA

2. 1-UP-2017 (Scottsdale Discount Auto)

Request by the applicant for a Conditional Use Permit for Vehicle Repair located at 1620 North 87th Street with Highway Commercial (C-3) zoning. Staff contact person is Jeff Barnes, 480-312-2376. Applicant contact person is Herbert Wagner, 480-745-9555.

Request to speak cards: Ken Berry

3. 3-UP-2017 (101 Restaurant)

Request by owner for a Conditional Use Permit for live entertainment on a +/-13,042 square foot site with Highway Commercial (C-3) zoning located at 8740 E Frank Lloyd Wright Blvd. Staff contact person is Keith Niederer, 480-312-2953. Applicant contact person is Mike Leary, 480-991-1111.

Item No. 2-3; Recommended City Council to approve cases 1-UP-2017 and 3-UP-2017 by a vote of 7-0; Motion by Commissioner Kush, per the staff recommended stipulations, based upon the finding that Conditional Use Permit criteria have been met. Seconded by Commissioner Fakih.

REGULAR AGENDA

4. 8-GP-2016 (Granite Reef Townhomes (aka Hudson East))

Request by owner for a non-major General Plan amendment to the City of Scottsdale General Plan 2001 to change the land use designation from Commercial to Urban Neighborhoods on a +/-1.27-acre site located at 8340 & 8350 E. McDonald Drive. Staff contact person is Dan Symer, AICP, 480-312-4218. Applicant contact person is Alexandra Schuchter, 480-947-8800.

5. 10-ZN-2016 (Granite Reef Townhomes (aka Hudson East))

Request by owner for a Zoning District Map Amendment from Neighborhood Commercial (C-1) to Multiple-family Residential (R-5) zoning on a +/-1.27-acre site located at 8340 & 8350 E. McDonald Drive. Staff contact person is Dan Symer, AICP, 480-312-4218. Applicant contact person is Alexandra Schuchter, 480-947-8800.

Item No. 4-5; Recommended City Council to approve cases 8-GP-2016 and 10-ZN-2016 by a vote of 7-0; Motion by Commissioner Kush, per staff recommended stipulations, after determining that the proposed Zoning District Map Amendment is consistent and conforms with the adopted General Plan and to include an additional stipulation to limit the site plan to two stories and one roof top deck. Second by Commissioner Young.

Request to speak cards: Terry Tower, Jim Schamadan

Written cards: Lisa Chamberlain, Terry Tower

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6. 28-ZN-2016 (Wolf Springs Ranch)

Request by owner for a Zoning District Map Amendment from Single-family Residential (R1-35) to Single-family Residential, Planned Residential Development (R1-18 PRD) zoning including a Development Plan and Amended Development Standards on a +/- 20-acre site located at 12475 N. 93rd St., 12435 N. 93rd St., 9320 E. Cactus Rd., 9350 E. Cactus Rd., 9370 E. Cactus Rd. and 9390 E. Cactus Rd. Staff contact person is Keith Niederer, 480-312-2953. Applicant contact person is Shelby Duplessis, 602-679-4438.

Item No. 6; Chair Alessio and Vice Chair Fakhri were recused. Commissioner Kush acted as Chair. Recommended City to approve case 28-ZN-2016, by a vote of 4-1; with Commissioner Kush dissenting. Motion by Commissioner Young, per the staff recommended stipulations, after determining the PRD findings have been met, and proposed Zoning District Map Amendment is consistent and conforms with the adopted General Plan and to also remove item 13.B from the stipulations related to the 93rd Street roadway access from full access to emergency only, seconded by Commissioner Smith.

Request to speak cards: Debra Fisher, Barbara Carpenter (time donated by Sherron Kulwin, Lisa West, Dana Finglaton), David Bost (time donated by Patty Badenoch, Robert Copple, Kevin O'Connor, Sara Mauricio, Richard Katz, Derek Hummert).

Written cards: Bob Handeg, Sonnie Kirtley, Donald Clark

7. 60-ZN-1983#3 (Escondido Manor Zoning Amendment)

Request by owner for a Zoning District Map Amendment to amend the Development Plan Standards and including Stipulations of Case 60-ZN-1983#2 to allow for a second-story addition to the existing home on Lot 10 of Escondido Manor with Single-Family Residential Planned Residential Development (R1-7 PRD) zoning, located at 12768 N. Windrose Drive. Staff contact person is Jeff Barries, 480-312-2376. Applicant contact person is Corey Sheen, 480-521-6926.

Item No. 7; The applicant requested to continue 60-ZN-1983#3 to a date to be determined. Motion to continue 60-ZN-1983#3 by a vote of 7-0; Motion by Commissioner Kush, seconded by Commissioner Serena.

Request to speak cards: Robert Julien

ADJOURNMENT

With no further business to discuss, the regular session of the Planning Commission adjourned at 7:29 p.m.

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